

STATE OF MICHIGAN
COURT OF APPEALS

MADISON ANDERSON,

Plaintiff-Appellant,

v

FORD MOTOR COMPANY,

Defendant-Appellee.

UNPUBLISHED

April 20, 2006

No. 259668

Wayne Circuit Court

LC No. 04-416081-CZ

Before: Murphy, P.J., and O'Connell and Murray, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the trial court's order dismissing his pro se complaint with prejudice. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

After plaintiff filed his original complaint, defendant moved for a more definite statement under MCR 2.115(A), which the trial court granted. In an order dated July 2, 2004, the court gave plaintiff 21 days to refile and serve an amended complaint that identified the factual and legal basis for each claim alleged. Plaintiff failed to file an amended complaint within the time allowed. Defendant alleges that it subsequently received an amended complaint that was filed on August 27, 2004.¹ Defendant moved to strike plaintiff's complaint and have the case dismissed for failure to timely comply with the court's July 2, 2004, order. The trial court granted defendant's motion. Defendant thereafter submitted a proposed order that included language that the case was to be dismissed "with prejudice." Plaintiff filed an objection to the inclusion of the "with prejudice" language and the matter was noticed for a hearing. Plaintiff failed to appear for the scheduled hearing, and the trial court dismissed the action with prejudice.

On appeal, plaintiff argues that the trial court erred in dismissing his complaint with prejudice because a dismissal for failure to timely file an amended complaint is not an adjudication on the merits. We disagree.

¹ The trial court docket entries do not reflect that a copy of the amended complaint was filed in the trial court.

MCR 2.504(B)(1) specifically allows a trial court to dismiss an action if a party fails to comply with a court's order. Furthermore, MCR 2.504(B)(3) provides that a dismissal under this subrule "operates as an adjudication on the merits." See *Makowski v Towles*, 195 Mich App 106, 107-108; 489 NW2d 133 (1992).

A dismissal under MCR 2.504(B)(1) is reviewed for an abuse of discretion. *Vicencio v Jaime Ramirez, MD, PC*, 211 Mich App 501, 506; 536 NW2d 280 (1995).

The trial court found that plaintiff's original complaint was lacking in specificity and gave plaintiff an opportunity to file an amended complaint that more specifically alleged the legal and factual bases for his claims. It is undisputed that plaintiff failed to file a proper complaint in the time allowed. Further, plaintiff failed to provide a sufficient reason for not timely complying with the court's order. Plaintiff also failed to appear at the hearing on his objections to the proposed order of dismissal. On this record, the trial court did not abuse its discretion by dismissing plaintiff's action with prejudice, as permitted by MCR 2.504(B)(1) and (3).

Affirmed.

/s/ William B. Murphy
/s/ Peter D. O'Connell
/s/ Christopher M. Murray